IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3951 OF 2006

Capt.Jagdish Khokhar. ... Petitioner.

V/s.

The Union of India & others. ... Respondents.

L.S.Shetty with A.M.Sethna
for the petitioner.

A.S.Rao for the respondents.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 21st June 2006.

P.C. :

. Rule, returnable forthwith.

. Mr.Rao, learned counsel appearing for the Revenue waives service. The petition is taken up for final hearing by consent of parties.

2. This petition is directed against order dictated on 13th May, 2002 signed on 22nd December, 2003 and dispatched on 30th January, 2004 by the Additional Commissioner of Customs, Mumbai. The said order is an *ex parte* order. The order was passed on the premise that a call notice issued to M/s.Abhay Oceans Projects Ltd., returned undelivered by the postal authorities with remark "LEFT", was a good service.

3. It is very difficult to understand from the remark "LEFT"; as to whether intimation was left for being given to the addressee or the addressee itself has left the addressed premises. In this view of the matter, it is difficult to hold that the service was proper, consequently, it is not possible to sustain the *ex parte* order impugned in this petition.

4. Having heard Mr.Rao, learned counsel appearing for the Revenue and looking to the consensus between the parties, the impugned order is set aside for want of proper service. The proceedings are remitted back to the adjudicating authority, namely, the Additional Commissioner of Customs for consideration afresh.

5. It is needless to mention that the adjudicating authority shall give fresh opportunity of personal hearing to the petitioner- assessee and shall adjudicate upon the matter by passing reasoned order as expeditiously as possible, at any rate, within three months from the date of receipt of copy of this order. All rival contentions are kept open.

6. Rule is made absolute in terms of this order with no order as to costs.

(J.P.DEVADHAR, J.) **(V.C.DAGA J.)**